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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,993	02/09/2004	Claudio Tonelli	07552.0025	1291
22852	7590	06/20/2007		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER DEAK, LESLIE R	
			ART UNIT 3761	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Response to Rule 312 Communication

Application No.

10/775,993

Applicant(s)

TONELLI ET AL.

Examiner

Leslie R. Deak

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☒ The amendment filed on 24 May 2007 under 37 CFR 1.312 has been considered, and has been:

a) ☐ entered.

b) ☐ entered as directed to matters of form not affecting the scope of the invention.

c) ☐ disapproved because the amendment was filed after the payment of the issue fee.

Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.

d) ☒ disapproved. See explanation below.


e) ☐ entered in part. See explanation below.

MPEP 714.19 recommends that entry of amendments presented under 37CFR 1.312 be denied entry when the amendment presents a new claim that raises a new issue in an application whose prosecution before the primary examiner has been closed in cases where all claimed have been allowed. In the instant case, all peinding claims were allowed in the case, and applicant's submission of claims dependent from the allowed claims raises new issues that must be considered by the examiner.

MPEP 714.16 provides that where claims added by amendment under 37 CFR 1.312 are all of the form of dependent claims, some of the usual reasons for nonentry are less likely to apply although questions of new matter, sufficiency of disclosure, or undue multiplicity of claims could arise.

The claims presented by applicant require more than a cursory review of the record, since the claims, though dependent from the allowed claims, were withdrawn from prosecution and never examined. Accordingly, they were not assessed for enablement by the specification nor for 35 USC 112 compliance. Applicant's submission of eighty-one new claims presents a burden on the examiner, and is an improper use of 37 CFR 1.312 amendment practice.


TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER


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6 June 2007